

## **INITIAL STATEMENT OF REASONS**

### **Statewide Charter Schools**

**SECTION 11967. Appeals on Charter Petitions That Have Been Denied (Amendment)**  
**SECTION 11967.6. Submission of Statewide Charter School Petitions to the State Board of Education (Addition)**  
**SECTION 11967.7. Evaluation of Facilities for Statewide Charter Schools (Addition)**  
**SECTION 11967.8. Funding for Statewide Charter Schools (Addition)**  
**SECTION 11968. Maximum Number of Charters (Amendment)**  
**SECTION 11969. Numbering of Charter School Petitions (Amendment)**

### **SPECIFIC PURPOSE OF THE REGULATIONS**

The proposed regulations will clarify existing law with regard to the State Board of Education's process for reviewing charter petitions that have been denied by a county office of education after denial by a local school district, establish a process and criteria for State Board review and approval of charter schools of statewide interest that will operate on multiple sites, clarify the funding process to be used for statewide charter schools and clarify the State Board's process for numbering charter schools that will operate on multiple sites.

### **NECESSITY/RATIONALE**

AB 1994 (Chapter 1058, Statutes of 2002) amended the Charter School Act of 1992, and added *Education Code* Section 47605.8 that creates new responsibilities for the State Board to review and approve charter schools of statewide interest that propose to operate on multiple sites. *Education Code* Section 47605.8(a) requires the SBE to adopt regulations to implement this section. Finally, AB 1994 amended *Education Code* Section 47602 related to State Board numbering of charter petitions, and *Education Code* Section 47605(j) related to appeals of charter petitions that have been denied. These amendments of law require conforming and technical amendments to existing regulations.

### **SECTION 11967**

These amendments are necessary because, pursuant to AB 1994, *Education Code* Section 47065(j), now requires a charter petition that has been denied by a district to submit an appeal to the county board of education. Only if the county board denies the petition may the petitioners submit the appeal to the State Board. Prior to AB 1994, a petitioner for a charter denied by a district could submit an appeal directly to either the county board of education or the State Board of Education.

**Subsection (a).** The proposed amendment to subsection (a) deletes "or the State Board of Education" from the description of the first step in the appeal process. This is a conforming change to remove the option for a charter school that has been denied by a school district to submit an appeal directly to the State Board of Education. This is required because an amendment to *Education Code* Section 47065(j) now requires a charter petition to first submit an appeal to the county board of education. Only if the county board denies the petition may the petitioners submit the appeal to the State Board.

**Subsection (b).** Item (2) was deleted to recognize that the charter school appellant has no control over the action of the denying entity and therefore, should not be required to submit documents originating from the denying entity.

**Subsection (c).** This section has been revised to reflect the new sequential process of appeal from the county to the state.

**Subsection (d).** Amendment provides technical clarity.

**Subsection (e).** Amendment provides technical clarity.

**Subsection (f).** The proposed amendment to subsection (f) makes a minor and technical amendment to remove language duplicated in subsection (c).

## **SECTION 11967.6**

*Education Code* Section 47605.8 creates new responsibilities for the State Board to review and approve charter schools of statewide interest that propose to operate on multiple sites. *Education Code* Section 47605.8(a) requires the SBE to adopt regulations to implement Section 47605.8.

Further, *Education Code* Section 47605.8(d) states, “The State Board of Education shall not be required to approve a petition for the operation of a statewide charter school, and may deny approval based on any of the reasons set forth in subdivision (b) of Section 47605.6.” Section 47605.6(b)(6) states that the board may deny a petition on any “basis the board finds justifies the denial of the petition.” The section appears to give the State Board broad authority and discretion to establish the criteria and standards for charter approval. Therefore, these regulations are necessary to establish board policy and provide clear guidance to charter petitioners.

**Subsection (a).** This subsection parallels the requirements in 5 CCR 11967 that established specific application requirements for charter petitions to the State Board. However, multi-site charters present a greater level of complexity than a single site charter. Therefore, this section establishes requirements that are similar to those for single-site charters, but modifies them to address each requirement for each site that will be operated by the charter.

Number 1 conforms to the requirement in *Education Code* Section 47605.8(a) that statewide charter schools comply with all statutory requirements except those related to geographic and site limitations.

Number 2 specifies limitations on the provision of independent study in a statewide charter. Since the law does not provide any flexibility for statewide charters with regard to operating independent study, it is necessary to be explicit here so that independent study providers fully understand the complexity and restrictions of operating independent study programs through a statewide charter.

Number 3 requires the scope of the charter audit to include consideration for each site. This requirement is intended to improve site level management and ensure each site of a multi-site charter is compliant.

Number 4 provides parameters for consideration of a statewide charter. For purposes of this section, a charter must provide for the instruction of pupils “at sites in more than one district or in more than one county” and must initially commence instruction at more than one site. This restriction is consistent with *Education Code* Section 47605.8(a), which requires a statewide

charter to “operate at multiple sites through out the state”. This section will ensure a scope of operation that is significantly different from a single site charter.

Number 5 clarifies that a multi-site school must operate essentially the same educational program at each site. This is consistent with *Education Code* Section 47602 that requires a multi-site charter that operates different educational program to receive separate numbers by the State Board. Further, if a school were to operate significantly different educational programs at each site, it would not be able to meet the test of a single school of statewide benefit. It would be more appropriate for such an operation to seek individual charters from each local district in which it chooses to operate.

Number 6 requires specific information about the school's special education program. The provision of special education services by a single school on multiple sites through the state could be very complicated and problematic. Further, the consequences of noncompliance with special education law are potentially very serious. Therefore, requiring specific information on the school's special education program is justified.

Number 7 requires petitioners to demonstrate that they have previously operated an academically successful charter school as evidenced by a high Academic Performance Index or other indicators of success. This section will help to ensure that charter petitioners who are going to be operating multiple sites in the state have some previous successful experience. This is important because the span of oversight at the state level is much greater than at the local level and the State Board needs to have some assurance that the petitioners are reasonably able to operate a high quality academic program with minimal oversight.

Numbers 8 through 10 establish specific requirements for local input and communication about the charter. Multi-site charters submitted to the State Board could potentially bypass the traditional local consideration for a charters school. Local input for charter development and approval is a key element to the success of charter schools. Therefore, this subsection requires petition signatures, local district notification and public hearings for each site of the proposed charter. This will ensure an opportunity for local input and communication, even though the charter will be authorized at the state level.

Number 11 requires statewide charter petitions to address all of the elements in law that are required of charter petitions approved at the local level or on appeal to the State Board. This section conforms to the requirement that statewide charters meet all requirements in law except geographic and site limitations.

Number 12 requires the statewide charter petition to address any conditions adopted by the State Board at the time of charter approval. This is consistent with State Board actions and authority for charters approved on appeal. This is necessary because the required elements of the petition do not address all of the items that must be in place before a school can open (such as insurance, attendance accounting procedures, etc.). It is reasonable for the State Board to require that such provisions be in place prior to the opening of a new school.

Number 13 of this section requires information about the operation of the multi-site charter. Because of the complexity of operating at several sites, this requirement is necessary to ensure that the schools have a viable operation and administrative plan.

Number 14 requires site-specific information for each site of the multi-site school. This is similar to the site and facility information that is required of all charter schools pursuant to Education Code Section 47605(g).

**Subsection (b).** This subsection defines what is required of a petitioner to convince the State Board that the multi-site charter will be of “statewide benefit.” Statewide benefit is a requirement for State Board approval. “Statewide benefit” is defined in such a way that ensures that the State Board approval of a multi-site charter would be of greater benefit to the state as a whole, than the loss of the local benefit of approving and overseeing a charter.

**Subsection (c).** This subsection clarifies the statewide charter is to be treated as one organizational entity (similar to a school district) for all purposes and each individual site is to be treated as an individual school. This subsection is necessary to ensure that for purposes of monitoring AYP and API growth targets the State Board is able to review the progress of individual sites. This subsection will also allow individual sites to apply for grant funding that is applicable to individual schools.

**Subsection (d).** This section clarifies that a statewide charter may be modified or new sites proposed that weren’t in the original petition only with the approval of the State Board. This section is intended to make clear that statewide charters may not be substantially amended without the authorization of their chartering authority (the State Board) and is consistent with *Education Code* Section 47605(a)(4), which requires a charter school seeking to add additional sites to request a material amendment to its charter from its chartering authority.

**Subsection (e).** This section provides for the submission of an annual report to the State Board by each statewide charter school regarding student performance data, performance benchmarks and other data that supports the charter. This subsection is consistent with the general authority of chartering entities to monitor the academic performance of the charter schools they approve.

## **SECTION 11967.7**

This section provides technical clarity regarding the timelines by which statewide charter schools must submit documentation for each site before it can begin instruction at the site.

**Subsection (a).** This subsection specifies a timeline for statewide charter schools to submit site information required under proposed Section 11967.6(a)(13) and the timeline by which the California Department of Education must evaluate the adequacy and appropriateness of the facilities. This section also requires that the California Department of Education notify the charter school and any affected local education agency of its determination and provides for a process of appeal of the determination. This section is necessary to provide for the orderly submission and review of facilities information and to allow potentially affected local education agencies an opportunity to voice their perspectives on the adequacy of the proposed site.

**Subsection (b).** This subsection specifically applies *Education Code* Section 47652(b) to statewide charter schools, which requires a charter school to commence operation no later than September 30 of the first fiscal year of operation.

## **SECTION 11967.8**

This section provides technical clarity regarding the funding calculation and process for providing operational funding to statewide charter schools.

**Subsection (a).** *Education Code* Section 47605.8 establishes new authority for the State Board to authorize and oversee charter schools of statewide interest. These charter schools are not associated with any local school district. However, the charter school funding model authorized in *Education Code* Section 47633 relies on a combination of state and local revenues to fully fund a charter school's block grant. The local revenue comes from the "sponsoring local education agency" which is specifically defined in *Education Code* Section 47632(i). The sponsoring LEA is usually the school district that authorized the charter, or in the case of a charter approved on appeal, the district that initially denied the charter. The "sponsor" is responsible for the local property tax portion of the charter school block grant. However, in the case of a statewide charter approved pursuant to *Education Code* Section 47605.8, no sponsoring LEA is identified in code. This section clarifies that for purposes of the local tax transfer, there is no "sponsoring LEA" and, therefore, the charter school block grant shall be funded entirely from state aid. Further, because there is no associated LEA in a statewide charter, this subsection also specifies that a statewide charter must be direct-funded for purposes of the charter school funding model.

The alternative to this method would be to require the "sponsor" to be "the pupil's school district of residence". This is the definition used for certain county authorized charter schools as specified in *Education Code* Section 47632(i)(4). However, the complexity in collecting and calculating this information for a charter school that may enroll students from any district in the state would be virtually impossible to administer. The resources required to attempt it would far outweigh the value of the local tax offset. Therefore, the method proposed here is the most reasonable given the lack of clear legislative direction on this issue.

**Subsection (b).** This subsection clarifies a process by which a statewide charter school becomes associated with a county office of education for purposes of receiving funding. Because there is no LEA associated with a statewide charter school, a county office must be assigned to act as the LEA for purposes of establishing funding transfers for a statewide charter school.

## **SECTION 11968**

These amendments are necessary to align the charter numbering process more closely with the language in *Education Code* Section 47602 as amended by AB 1994, and the amendments to Section 11969 that are proposed below.

## **SECTION 11969**

These amendments are necessary because, pursuant to AB 1994 amendments to *Education Code* Section 47602, the State Board must now provide a separate charter number for each site of a charter school that does not share a common educational program. This section has also been revised to more closely align the numbering process with the intent of *Education Code* Section 47602 to track the number of charters authorized to operate in the state at any given time. Finally, the subsection has been rewritten to give explicit responsibility to the California Department of Education to establish and administer a charter school numbering system on behalf of the State Board.

**TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS.**

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of these regulations.

**REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.**

No other alternatives were presented to or considered by the State Board.

**REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.**

The State Board has not identified any alternatives that would lessen any adverse impact on small business.

**EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.**

The proposed regulations would not have a significant adverse economic impact on any business because they only provide clarity for charter schools for the purposes of claiming K-12 attendance for apportionment purposes.

